

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDWARD JONES,

Plaintiff,

vs.

M. LOPEZ, Correctional Officer,

Defendant.

No. C 03-2049 PJH (PR)

**ORDER REGARDING
MOTION TO PROCEED IN
FORMA PAUPERIS AND FEE**

This case was dismissed in July of 2003 for failure to state a claim. The dismissal was affirmed by the United States Court of Appeals for the Ninth Circuit in May of 2006. On March 30 of 2007 the court received from plaintiff a motion for leave to proceed in forma pauperis ("IFP") and a five-dollar filing fee. There was no case number, so the motion was filed in this case and the fee was credited to this case.

On April 24, 2007, plaintiff filed a habeas case which was given case number C 07-2249 PJH (PR). Because it was not accompanied by an application for leave to proceed in forma pauperis or the filing fee, the clerk sent plaintiff a notice to apply for IFP status or pay the fee. Plaintiff then wrote several letters to the court in that case regarding his belief that the prison was not sending out his legal mail or properly handling his legal requests for IFP documentation. In one of those letters he mentioned that he had sent this court the fee and a motion to proceed IFP "long before I actually filed my writ with the court." That, of course, was the cause of all the trouble, because when they were received there was no way to match that payment and IFP application with an open case. As a result they were mistakenly treated as intended for this case.

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1 The motion for leave to proceed IFP and the payment were meant for the case filed
2 later, C 07-2249 PJH (PR). The clerk shall docket the IFP application (document number
3 19) in C 07-2249 PJH (PR), and terminate it from this case. The finance department shall
4 credit plaintiff's five-dollar payment to C 07-2249 PJH (PR). The clerk shall provide a copy
5 of this order to the finance department.

6 Plaintiff should note that any paper mailed to this court for filing, except papers
7 intended to institute a new case, **must** carry the case number of the case in which it is to
8 be filed.

9 **IT IS SO ORDERED.**

10 Dated: September 12, 2007.



PHYLLIS J. HAMILTON
United States District Judge